

**REMARKS**

Pending in the present application are claims 1-5, 7, 9-25, 28, 29, and 31-32. In response to a Restriction Requirement dated May 29, 2007, claims 6, 8, and 26 were withdrawn. In an Office Action dated July 24, 2007, claims 1-5, 7, 9-25, 27-32 were rejected over the prior art. In response to the July Office Action claims 1, 17, 24 and 30 are amended, , claims 2, 3, 20, 21, 27, and 28 are cancelled, claims 33 and 34 are added, and claims 6, 8 and 26 were withdrawn from consideration. In reliance on the following remarks all pending claims 1, 4-19, 22-26, and 29-34 (including withdrawn claims) are presented for reconsideration and notice of allowance as to all pending claims is requested.

Initially, it is helpful to put the Applicant's invention into context before discussing the merits of the Office Action's rejections. In this Amendment, all independent claims have been amended to recite a **concrete veneer panel** (or plurality of panels) that contains **fiber reinforced concrete** with a **thickness between about ½ inch to about ¾ inch**. None of the art cited in the Office Action teaches or discloses a fiber reinforced concrete veneer panel with that range of thicknesses. A veneer panel thickness in the range claimed results in concrete veneer panels that can be easily assembled to simulate a stone wall. The thicknesses claimed make the concrete veneer panels easy to install and hang. Utilizing fiber reinforced concrete also greatly simplifies the formation process for the veneer panels, as the panels can be formed by spraying fiber reinforced concrete onto a mold. The thin (about ½ to about ¾ inch) concrete veneer panels can then be simply hung by the customer to simulate a stone wall surface.

Applicant's invention differs markedly from the invention disclosed and taught in Nasvik et al. 5,232,646 (hereinafter Nasvik '646). Nasvik '646 discloses a method of forming a load bearing wall made of concrete in which the outer surface of the wall can be made to look like stones by utilizing form liners. The load bearing wall may be, for example, a retaining wall along the side of a highway. FIGS. 1, 3 and 4 of Nasvik '646 show examples of form liner patterns, not concrete veneer panels similar to those claimed by the Applicant. Form liners are constructed from polymer

material and are removed after the concrete wall has set. Form liners cannot be used as a wall or as a veneer.

### Claim Rejections

#### 1. **35 U.S.C. § 102(b): Claims 1, 7, 10 and 12**

Nasvik '646 was cited in rejecting independent claim 1 and dependent claims 7, 10 and 12. For a claim to be anticipated, each and every element as set forth in the claim must be found in a single prior art reference. See M.P.E.P. § 2131. Nasvik et al. '646 does not anticipate claims 1, 7, 10 and 12 as each respective claim recites at least one limitation not found therein.

Nasvik '646 discloses a method for creating a contoured cement wall utilizing a pour in place operation. The result of the method is a cement wall that has a thickness designed for load bearing and the appearance of natural stone and mortar. The wall is formed from a plurality of interlocking mold members (termed form liners in the industry) and pouring cement to set between the form liners. Form liners are constructed from polymer material and are removed after the wall concrete has set, therefore, form liners cannot be used as a wall or as veneer. Contrast this pour in place method of construction to the veneer paneling system discussed on pg. 4 lines 10-19 of the Application. The cement wall that results from a pour in place operation such as the one disclosed in Nasvik '646 serves the structural purpose of bearing loads or fencing in an area. See definition "wall" e.g. Merriam Webster Dictionary (<http://www.m-w.com/dictionary/wall>); accord, Standard Handbook for Civil Engineers Fourth Ed. from McGraw Hill § 15.27 ("construction for enclosing space or retaining earth or stored materials.")

The invention described by claim 1 is a fiber reinforced concrete veneer panel for attaching to an existing wall surface. During examination, the claims must be interpreted as broadly as their terms reasonably allow. See M.P.E.P. § 2111.01 One method of manufacturing the type of veneer described in claim 1 is to pre-cast it by spraying fiber reinforced concrete onto a mold. Because fiber reinforced concrete is used, the resulting panel is thin enough so that the surface (e.g. back surface) of the panel not placed against the mold takes on a shape similar to that of the surface (e.g. front surface) in direct contact with the mold. Thus, the manufacturing process may result in a

contoured front and back surface after the depositing of the fiber reinforced concrete onto the mold surface. See Application, FIG. 7. The veneer panel is then placed on an existing wall for the purpose of simulating stone and mortar regions. As a result of its contoured shape, fiber reinforcement, and relatively thin cross sectional thickness, (which results in a substantial reduction in the weight of the veneer panel) wall veneer is not utilized for the purposes of load bearing or fencing as walls are. See e.g. Application, FIG. 7; para. [0010] and [0011]; Merriam Webster Dictionary (<http://www.m-w.com/dictionary/veneer>); accord, Standard Handbook for Civil Engineers Fourth Ed. from McGraw Hill § 15.27 ("[a] wythe securely attached to a wall but not considered as sharing load with or adding strength to it.")

For a claim to be anticipated, each and every element as set forth in the claim must be found in a single prior art reference. See M.P.E.P. § 2131. Independent claim 1 has been amended to incorporate the elements of claims 2 and 3 and recites a concrete veneer panel, the panel being made of fiber reinforced concrete having a thickness of about one half to about three quarters of an inch. Nasvik '646 discloses a method of forming a wall, not a veneer panel. Nasvik '646 does not disclose, teach, or suggest using fiber reinforced concrete to form a veneer panel with a thickness of between about one half to about three quarters of an inch.

Therefore, Nasvik '646 does not anticipate amended independent claim 1, because it fails to disclose, teach, or suggest each and every limitation found therein, and the rejection of independent claim 1 should be withdrawn. Claims 7, 10 and 12 depend from claim 1 and are allowable therewith.

## 2. **35 U.S.C. § 103(a): Claims 2-5, 9, 11, 13-25, and 27-32**

Independent claims 13, 17, 24, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Nasvik '646 in view of combinations of Piazza (4,229,497), and Sherry (5,787,666). Dependant claims 2-5, 9, 11, 14-16, 18-23, 25, 28-29, and 31-32 in some cases were rejected over various combinations of Nasvik, Piazza, and Sherry in further view of Keller (4,275,540), Horstketter (6,449,914), and Neumann (4,299,069).

**A. Claims 2-5**

Claims 2-5 depend from amended independent claim 1. Claims 2 and 3 have been cancelled in view of the amendment to claim 1. Because independent claim 1 contains elements not contained in Nasvik '646 in view of Piazza, Keller, Horstketter, Newman or Sherry, such as concrete veneer panel (or plurality of panels) made of fiber reinforced concrete with a thickness between about  $\frac{1}{2}$  inch to about  $\frac{3}{4}$  inch, dependant claims 4 and 5 are also allowable. See M.P.E.P. § 2143.03.

**B. Claims 13-25 and 27-32**

Independent claims 13, 17, 24, and 30 were rejected over Nasvik '646 in view of Sherry, and in some cases in further view of Piazza. Because Nasvik '646, Sherry, and Piazza alone or in combination do not teach, disclose, or suggest all the elements of claims 13, 17, 24, and 30, the rejection of the claim under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claim 13 has been amended to recite a concrete veneer panel with a front surface pattern of simulated stone and motor regions and a back surface for attaching the concrete veneer panel to a wall surface, where the concrete veneer panel contains fiber reinforced concrete with a thickness between about  $\frac{1}{2}$  inch to about  $\frac{3}{4}$  inch. Similarly, claims 17, 24 and 30 have been amended to recite a fiber reinforced concrete veneer panel system utilizing a plurality of fiber reinforced veneer panels with thicknesses between about  $\frac{1}{2}$  to about  $\frac{3}{4}$  of an inch.

Nasvik '646 does not contain all the elements of amended independent claims 13, 17, 24, and 30 for the reasons stated in section one of these Remarks, among them the fact that Nasvik '646 recites a method of manufacturing a wall structure, and does not disclose or teach a fiber reinforced concrete veneer with a thickness of between about one half to about three quarters of an inch.

Similarly, the combination of Nasvik '646 and Sherry does not contain all the elements of claim because the combination discloses neither a concrete veneer panel, fiber reinforced concrete, nor the range of thicknesses of claims 13, 17, 24, and 30. Sherry teaches masonry panels with actual stone or stonelike materials such as polymer or ceramic placed in cement. See e.g.

Sherry, col. 1 lines 59-66; FIGS. 4 and 10. The panels Sherry discloses are not entirely concrete, and do not use fiber reinforced concrete. The panels Sherry discloses also are not in the range of thicknesses of the panels claimed by the Applicant. Sherry does disclose panel between 1 to 2 inches, however, in Col. 6 Line 4-5, Sherry discloses that a 2 foot by 4 foot panel would weigh approximately 160 pounds. That is a substantial amount of weight for the individual installing the panel to lift and hang. As discussed earlier in the Remarks, a reduction in thickness to the range claimed by the Applicant results in a substantial reduction in the weight for concrete veneer panel. This reduction in weight represents a substantial improvement over the prior art as it has made concrete veneer panel easier to install and hang.

Adding Piazza to the combination of Nasvik '646 and Sherry would not address all the elements disclosed in claims 13, 17, 24 and 30. Piazza teaches composite curtain wall panels with foam cores. See e.g., Piazza, col. 5 lines 14-31. The curtain wall has a thickness of four inches. See e.g. Piazza, col. 4 lines 6-13. As stated earlier, a thickness in the range of about 1/2 to about 3/4 inch results in a substantial reduction in the overall weight of the invention when compared to Piazza's 4 inch thick curtain wall panels. Piazza also does not teach, disclose, or suggest utilizing fiber reinforced concrete throughout the entire wall panel. Expanding the teachings of Nasvik '646, Sherry, or Piazza beyond their disclosure would be impermissible hindsight, utilizing the teachings of the present invention as a road map for selectively modifying the teachings of the prior art.

The combination of Nasvik '646, Sherry, and Piazza fails to disclose, teach, or suggest all of the elements recited in amended claims 13, 17, 24 and 30, and rejection of the claims under 35 U.S.C. § 103(a) is therefore improper. Because independent claims 13, 17, 24 and 30 contain elements not contained in Nasvik '646 in view of Piazza, Keller, Horstketter, Newman or Sherry, such as concrete veneer panel (or plurality of panels) made of fiber reinforced concrete with a thickness between about 1/2 inch to about 3/4 inch, dependant claims 4, 5, 9, 11, 14-16, 18-23, 25, 28-29, and 31-32 are also allowable. See M.P.E.P. § 2143.03.

**3. Withdrawn Claims: Claims 6, 8, and 26**

Claims 6, 8, and 26 were withdrawn from consideration in the Office Action of July 24, 2007. Claims 6 and 8 depend from claim 1, which is now in condition for allowance. Claim 26 depends from claim 24, which is now in condition for allowance. Therefore, claims 6, 8, and 26 are allowable and should no longer be withdrawn from consideration.

**Conclusion**

In response to the Office Action claims 1, 17, 24 and 30 are amended, claims 2, 3, 20, 21, 27, and 28 are cancelled, claims 33 and 34 are added. All pending claims are now in condition for allowance. Notice to that effect is respectfully requested.

The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982. A duplicate copy of this communication is enclosed.

Respectfully submitted,

KINNEY & LANGE, P.A.

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By:



David R. Fairbairn, Reg. No. 26,047  
THE KINNEY & LANGE BUILDING  
312 South Third Street  
Minneapolis, MN 55415-1002  
Telephone: (612) 339-1863  
Fax: (612) 339-6580

DRF:DLB:arm